

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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WILLIAM HOWELL,

Plaintiff,

ORDER

16-CV-6117CJS

v.

MONROE COUNTY, et al.,

Defendants.

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Plaintiff William Howell (“Howell”) having filed a motion for sanctions (Docket # 46), defendants (except for Shahid Ali, N.P., against whom Howell did not seek relief) (collectively, “Defendants”) having opposed the motion (Docket # 49), this Court having reviewed the parties’ submissions, and oral argument having been conducted on February 22, 2018, it is hereby

ORDERED that, for the reasons stated more fully on the record on February 22, 2018, plaintiff’s motion for sanctions (**Docket # 46**) is **GRANTED in PART, DENIED in PART, and RESERVED in PART**. It is further

ORDERED that, **on or before March 8, 2018**, in accordance with the Court’s guidance during the proceedings, Defendants are directed to supplement their responses to **Document Requests Nos. 23, 33, 37, and 40**. If additional documents responsive to the requests exist, they must produce such documents by March 8, 2018; if no additional responsive documents exist, they must certify in writing by March 8, 2018 that a diligent search for responsive documents has been conducted and no additional responsive documents have been located. Any such certification should also indicate whether any responsive documents existed

but were lost or destroyed subsequent to the service of the document requests. With respect to **Document Request No. 23**, Defendants are directed to provide a list of responsive lawsuits, including the relevant court name and docket number. It is further

ORDERED that, **on or before March 22, 2018**, in accordance with the Court's guidance during the proceedings, Defendants are directed to supplement their responses to **Document Requests Nos. 1, 2, 3, 6, 13, 16, 17, 19, 24, 25, 26, 28, 30, 36, 39, 42, and 44**. If additional documents responsive to the requests exist, they must produce such documents by no later than March 22, 2018; if no additional responsive documents exist, they must certify in writing by no later than March 22, 2018 that a diligent search for responsive documents has been conducted and no additional responsive documents have been located. Any such certification should also indicate whether any responsive documents (including requested video and audio recordings) existed but were lost or destroyed subsequent to the service of the document requests. Specific instructions for certain requests are as follows:

- a) With respect to **Document Request No. 6**, in accordance with the understandings placed on the record during the proceedings, Defendants are directed to search for responsive documents for the period September 1, 2013 through February 1, 2014, and confer with plaintiff regarding the results of the search and the production of any responsive documents;
- b) With respect to **Document Requests Nos. 13, 24, 25, and 30**, in accordance with the understandings placed on the record during the proceedings, Defendants shall search for responsive policies and protocol manuals and confer with plaintiff's counsel to arrange for the copying and production, at plaintiff's reasonable expense, of the entirety of any manuals identified;
- c) With respect to **Document Request No. 19**, Defendants are directed to search for and produce CMC's Articles of Incorporation and documents reflecting CMC ownership and stock distributions between December 1, 2013 and May 1, 2014, as well as the most current information;
- d) With respect to **Document Request No. 28**, plaintiff is directed to promptly provide to Defendants' counsel the information referenced during the

proceedings, and Defendants are directed to search for and produce any responsive documents;

- e) With respect to **Document Request No. 36**, Defendants shall search for and produce any responsive documents. If no responsive documents exist, Defendants must certify that a diligent search has been conducted and describe the steps undertaken to search for and identify responsive documents; and
- f) With respect to **Document Request No. 42**, Defendants are directed to search for and produce any documents responsive to the request in accordance with the Court's direction and guidance regarding the scope of this request provided during the proceedings.

It is further

ORDERED that, in accordance with the parties' understandings placed on the record during the proceedings, that **Document Request No. 29** is withdrawn without prejudice to plaintiff's service of additional requests relating to this topic. It is further

**ORDERED, that Defendants' counsel contemporaneously provide to this Court copies of any supplemental written responses required by this Order.** It is further

ORDERED, that the portion of plaintiff's motion (**Docket # 46**) which seeks sanctions is **RESERVED**.

**IT IS SO ORDERED.**

Marian W. Payson

MARIAN W. PAYSON  
United States Magistrate Judge

Dated: Rochester, New York  
February 26, 2018